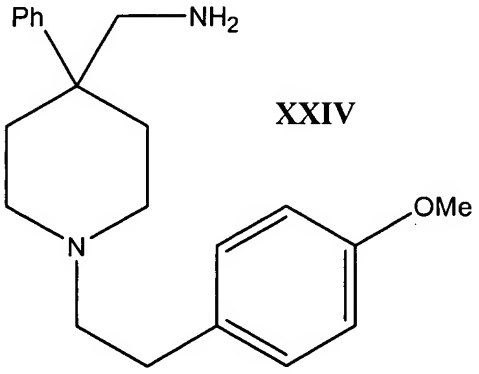
Remarks

Claims 1 and 92-100 are pending. Claims 1 and 92 stand rejected. Claims 1 and 92 have been amended. Claims 93-100 are new. No new matter has been added. Importantly, the claim amendments should not be construed to be an acquiescence to any of the claim rejections. Rather, the amendments to the claims are being made solely to expedite prosecution of the above-identified application. The Applicant expressly reserves the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 USC § 120.

Response to Claim Rejections Based on 35 USC § 102(b)

DeGraw et al. J. Med. Chem. ***1967,*** 10, *174*

Claims 1 and 92 stand rejected under 35 USC § 102(b), based on the Examiner's contention that they are anticipated by compound **XXIV** of DeGraw et al. Compound **XXIV** is depicted below to support the discussion.



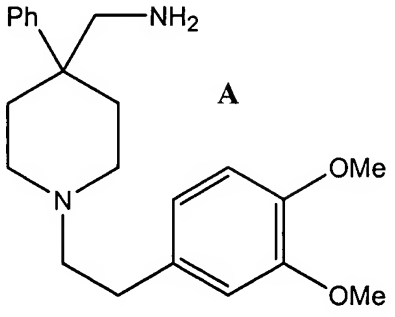
XXIV

Claims 1 and 92 have been amended to remove from the definition of R_2 the following two groups: $(R)_2N$-alkyl and $(R)_2N$-cycloalkyl. Aminomethyl ($-CH_2NH_2$) is the group in compound **XXIV** corresponding to R_2 in claims 1 and 92. Aminomethyl corresponds to $(R)_2N$-alkyl, wherein R is H; and alkyl is CH_2. Because $(R)_2N$-alkyl has been removed from the definition of R_2 in claims 1 and 92, amended claims 1 and 92 do not read on compound **XXIV** of DeGraw et al.

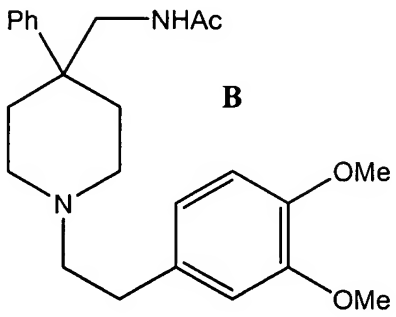
Accordingly, the Applicant respectfully requests the withdrawal of the claim rejections under 35 USC § 102(b) based on DeGraw et al.

Rehse et al. Chemical Abstracts *91:168231 (1979)*

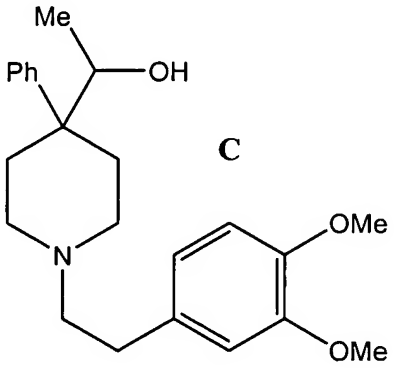
Claims 1 and 92 stand rejected under 35 USC § 102(b), based on the Examiner's contention that they are anticipated by three compounds of Rehse et al. Compounds **A**, **B**, and **C** are depicted below to support the discussion.



A



B



C

As discussed above, claims 1 and 92 have been amended to remove from the definition of R_2 the following two groups: $(R)_2N$-alkyl and $(R)_2N$-cycloalkyl. Aminomethyl ($-CH_2NH_2$) and (acetylamino)methyl are the groups in compounds **A** and **B**, respectively, corresponding to R_2 in claims 1 and 92. Aminomethyl corresponds to $(R)_2N$-alkyl, wherein R is H; and alkyl is CH_2; and (acetylamino)methyl corresponds $(R)_2N$-alkyl, wherein the first instance of R is H; the second instance of R is acetyl; and alkyl is CH_2. Because $(R)_2N$-alkyl has been removed from the definition of R_2 in claims 1 and 92, amended claims 1 and 92 do not read on compounds **A** and **B** of Rehse et al.

The definitions of R_2 in claims 1 and 92 have also been amended to replace RO-alkyl with RO-CH_2. 1-Hydroxyethyl ($-CH(OH)CH_3$) is the group in compound **C** corresponding to R_2 in claims 1 and 92. 1-Hydroxyethyl ($-CH(OH)CH_3$) corresponds to RO-alkyl, wherein R is H; and alkyl is ethyl. Because RO-alkyl has been removed from the definitions of R_2 in claims 1

and 92, and 1-hydroxyethyl (-CH(OH)CH_3) does not fall within the scope of RO-CH_2, amended claims 1 and 92 do not read on compound **C** of Rehse et al.

Accordingly, the Applicant respectfully requests the withdrawal of the claim rejections under 35 USC § 102(b) based on Rehse et al.

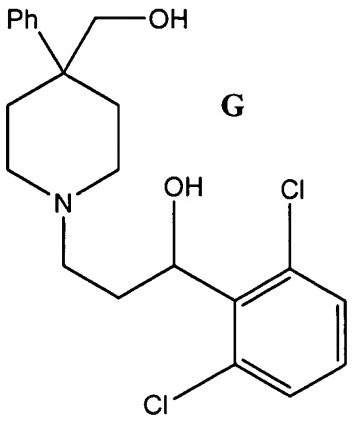
Rehse et al. Chemical Abstracts *106:18327 (1987)*

Claims 1 and 92 stand rejected under 35 USC § 102(b), based on the Examiner's contention that they are anticipated by various compounds of Rehse et al. As discussed above, claims 1 and 92 have been amended to remove from the definition of R_2 the following two groups: $(R)_2N$-alkyl and $(R)_2N$-cycloalkyl. All of the compounds advanced by the Examiner against claims 1 and 92 possess a "CH_2N" moiety at the position corresponding to R_2 in claims 1 and 92. Because $(R)_2N$-alkyl and $(R)_2N$-cycloalkyl have been removed from the definition of R_2 in claims 1 and 92, amended claims 1 and 92 do not read on the various compounds advanced from Rehse et al.

Accordingly, the Applicant respectfully requests the withdrawal of the claim rejections under 35 USC § 102(b) based on Rehse et al.

Fujisawa Pharmaceutical Co. Chemical Abstracts *101:191709 (1984)*

Claims 1 and 92 stand rejected under 35 USC § 102(b), based on the Examiner's contention that they are anticipated by compound **G** of Fujisawa Pharmaceutical. Compound **G** is depicted below to support the discussion.



G

Claims 1 and 92 have been amended to limit the definition of n to 0 or 1. In compound **G** there is a "-CH_2CH_2CH(OH)-" tether between the piperidine nitrogen and the 2,6-dichlorophenyl

moiety. In the parlance of the structural limitations of claims 1 and 92, this tether corresponds to n is 2; R_3 is H; and R_4 is OH. Because the definition of n has been limited to 0 or 1 in claims 1 and 92, amended claims 1 and 92 do not read on compound **G** of Fujisawa Pharmaceutical.

Accordingly, the Applicant respectfully requests the withdrawal of the claim rejections under 35 USC § 102(b) based on Fujisawa Pharmaceutical Co.

Fees

The Applicants believe they have provided for the required fees in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any additional required fee to our Deposit Account **06-1448**; Reference **SPV-048.02**.

Conclusion

In view of the above amendments and remarks, the Applicant believes that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,
Patent Group
Foley Hoag LLP

By: Dana Gordon

Dana M. Gordon, PhD
Reg. No. 44,719
Attorney for Applicant

Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210

Telephone: (617) 832-1000
Telecopier: (617) 832-7000

Date: November 28, 2005